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DISCRIMINATION AGAINST INDIGENOUS PEOPLES

Report of the Working Group on Indigenous Populations on its fourteenth session
(Geneva, 29 July-2 August 1996)

Chairperson-Rapporteur: Ms. Erica-Irene A. Daes

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Introduction

Mandate

1. The creation of the Working Group on Indigenous Populations was proposed by the Sub-Commission on Prevention of Discrimination and Protection of Minorities in its resolution 2 (XXXIV) of 8 September 1981, endorsed by the Commission on Human Rights in its resolution 1982/19 of 10 March 1982, and authorized by the Economic and Social Council in its resolution 1982/34 of 7 May 1982. In that resolution the Council authorized the Sub-Commission to establish annually a working group to meet in order to:

(a) Review developments pertaining to the promotion and protection of human rights and fundamental freedoms of indigenous populations, including information requested by the Secretary-General annually from Governments, specialized agencies, regional intergovernmental organizations and non-governmental organizations in consultative status, particularly those of indigenous peoples, to analyse such materials, and to submit its conclusions to the Sub-Commission, bearing in mind in particular the conclusions and recommendations contained in the report of the Special Rapporteur of the Sub-Commission, Mr. José R. Martínez Cobo, entitled "Study of the problem of discrimination against indigenous populations" (E/CN.4/Sub.2/1986/7 and Add.1-4);

(b) Give special attention to the evolution of standards concerning the rights of indigenous populations, taking account of both the similarities and the differences in the situations and aspirations of indigenous populations throughout the world.

2. In addition to the review of developments and the evolution of standards, which are separate items on the Working Group's agenda, the Group has over the years considered a number of other issues relating to indigenous rights. The Commission on Human Rights in its resolution 1996/40 of 19 April 1996 welcomed the proposal of the Working Group to highlight at its fourteenth session the question of indigenous people and health as a sub-item of the item dealing with the review of developments. In the same resolution, the Commission requested that a discussion on the concept of indigenous people take place during the fourteenth session of the Working Group and also invited the Working Group to include in its future work the review of international activities undertaken during the International Decade of the World's Indigenous People and to receive information from Governments on the implementation of the goals of the Decade in their respective countries, in accordance with paragraph 16 of the annex to General Assembly resolution 50/157 of 21 December 1995. Furthermore, the Commission on Human Rights, in resolution 1996/41 of 19 April 1996, requested the Working Group to continue to give priority consideration to the possible establishment of a permanent forum for indigenous people and to submit its further comments and suggestions, through the Sub-Commission, to the Commission at its fifty-third session. Finally, in decision 1996/109 of 19 April 1996, the Commission requested the Special Rapporteur on the study on treaties, agreements and other constructive arrangements between States and indigenous populations,

Mr. Miguel Alfonso Martínez, to submit a third report to the Working Group at its fourteenth session. All these questions were included in the provisional agenda prepared by the Secretariat.

Participation in the session

3. In its decision 1995/119 of 25 August 1995, the Sub-Commission decided on the following composition of the Working Group at its fourteenth session: Mr. Miguel Alfonso Martínez, Mr. Volodymyr Boutkevitch, Ms. Erica-Irene A. Daes, Mr. El-Hadji Guissé and Mr. Ribot Hatano.

4. The session was attended by Mr. Alfonso Martínez, Mr. Boutkevitch, Ms. Daes, Mr. Guissé and Mr. Hatano.

5. The following States Members of the United Nations were represented by observers: Algeria, Argentina, Australia, Bangladesh, Bolivia, Brazil, Canada, Chile, China, Colombia, Costa Rica, Cuba, Denmark, Ecuador, El Salvador, Estonia, Ethiopia, Finland, France, Greece, Guatemala, India, Iran (Islamic Republic of), Japan, Kenya, Libyan Arab Jamahiriya, Malaysia, Mexico, Myanmar, Nepal, Netherlands, New Zealand, Nicaragua, Nigeria, Norway, Peru, Philippines, Russian Federation, Slovakia, South Africa, Sri Lanka, Sweden, Ukraine, United States of America.

6. The following non-member States were represented by observers: Holy See and Switzerland.

7. The following United Nations bodies and specialized agencies were also represented by observers: Joint United Nations Programme on HIV/AIDS (UNAIDS), Secretariat of the Convention on Biological Diversity, Office of the United Nations High Commissioner for Refugees, United Nations Development Programme, United Nations Environment Programme, United Nations Educational, Scientific and Cultural Organization, United Nations Human Rights Verification Mission in Guatemala, International Labour Office, World Health Organization and World Bank.

8. The following regional and intergovernmental organizations were represented by observers: European Parliament and Pan American Health Organization.

9. The following national institution was also represented by an observer: Human Rights and Equal Opportunity (Australia).

10. The following indigenous non-governmental organizations in consultative status with the Economic and Social Council were also represented by observers:

(a) Organizations of indigenous peoples

Aboriginal and Torres Strait Islander Commission, Grand Council of the Crees (Quebec), Indian Law Resource Center, Indigenous World Association, International Indian Treaty Council, International Organization of Indigenous

Resource Development, Inuit Circumpolar Conference, National Aboriginal and Islander Legal Services Secretariat, Saami Council and World Council of Indigenous Peoples.

(b) Other organizations

General Consultative Status

International Movement ATD Quart Monde World Conference on Religion and Peace, World Wide Fund for Nature International.

Special Consultative Status

African Commission of Health and Human Rights Promoters, Amnesty International, Anti-Slavery International, Baha'i International Community, Commission of the Churches on International Affairs of the World Council of Churches, Friends World Committee for Consultation, Human Rights Advocates, International Centre for Human Rights and Democratic Development, International League for the Rights and Liberation of Peoples, International Organization for the Elimination of All Forms of Racial Discrimination, International Service for Human Rights, International Work Group for Indigenous Affairs, Minority Rights Group, North South XXI, Oxfam, Society for Threatened Peoples, Women's International League for Peace and Freedom, World Alliance of Young Men's Christian Associations, World Student Christian Federation and World University Service.

Roster

Foodfirst Information and Action Network - FIAN, International Association of Educators for World Peace, International Movement Against All Forms of Discrimination and Racism.

11. The following indigenous peoples' organizations and nations, as well as other organizations and groups, were represented at the session and provided information to the Working Group with its consent:

Aborigen Kamchathi, Aboriginal Medical Services Alliance Northern Territory, Aboriginal Provisional Government, Aboriginal Work Committee of the Presbyterian Church, Agencia Internacional de Prensa Indígena, Akhil Bharatiya Adivasi Vikas Prishad, Ainu National Congress, All Buryat Association for Culture Development, Alliance of Taiwan Indigenous Culture, American Indian Law Alliance, Anti-Racism Information Service, Anyinginyi Congress Aboriginal Corporation, Arravalli Adarsha Adivasi Farmers, Asamblea Nacional Indígena Plural por la Autonomía, Asia Indigenous Peoples Pact, Asociación Aucán - Pueblo Mapuche, Asociación Indígena de la República Argentina, Asociación Indígena Urbana Pacha-Aru, Asociación Napguana de Panamá, Asociación Programa de Salud Indígena, Assembly of First Nations, Assembly of Manitoba Chiefs, Association Aymara People, Association des Femmes Touareg Refugiées au Burkina Faso, Association de Soutien aux Nations Amerindiennes, Association d'Information et Documentation sur l'Amérique Indienne, Association Germe, Association Nouvelle pour la Culture et des Arts Populaire (Amazigh), Association Mapuche People, Association Mondiale des Scientifiques Autochtones, Association of Indigenous Peoples of Chukotka, Association

of Indigenous Small Peoples of the North Yamal-Nenets Autonomous District, Association of Protestant Churches and Missions, Association of Taiwan Plains Aborigines, Association of the Shorski People, Association Tohil Morales Quech Le Maya Ac'alabri, Associazione Culturale l'Altro Baobab, Atoka Diffusions, Big Mountain Action Group, Boro Women Justice Forum, Bowie State University, Bureau of Indigenous and Minorities, Cactus Valley/Redwillow Spring Communities, Canadian Friends Service Committee, Canadian Indigenous Womens Resource Institute, Carib Committee for Justice, Central Land Council, Central Zone, Centro Afro-Brasileiro de Estudos e Pesquisas Culturales, Centro de Documentazione Etnie, Centro de Estudios Jurídicos e Investigación Social, Centro de Estudios Pluriculturales, Centro de Información y Derechos de los Pueblos Indígenas, Chinese Public Television Service, Chin Human Rights Organization, Chin National Front - Chinland, Chittagong Hill Tracts Organization, Civic United Front, Comisión de Asuntos Indígenas de la Camara de Diputadas, Comisión de Defensa y Promoción de los Derechos del Pueblo Maya, Comisión Internacional de Derechos Indígenas de Sudamérica, Comisión Jurídica de los Pueblos de Integración Tawantinsuyana, Comité Belge - Amérique indienne, Comité de Defensa de los Derechos del Pueblo, Comité Social des Chagossiens, Common Ground, Comunidade Indígena Tremembe de Almofala, Confederación Indígena de Sud América, Confederacy of Treaty Six First Nations, Congrès Mondial Amazigh, Conseil des Bandes, Consejo de Mallkus y Amantas de Qollasuyo, Consejo de Todas las Tierras Mapuche Wali Mapuche, Consejo Guerrerense 500 Años de Resistencia Indígena, Consejo Inter-Regional Mapuche, Consejo Nacional de Médicos Indígenas Tradicionales, Consejo Pueblo Indígena, Consejo Tradicional de Pueblos Indios de Sowora, Cooperativa Técnico Scientífica di Base, Coordinación de Organizaciones Mapuches Newuen-Mapu, Coordinación de Pueblos Indígenas de Centro y Sud América, Coordinadora Ayllu, Coordinadora de Organizaciones y Naciones Indígenas del Continente, Coordinadora Kaqchikel de Desarrollo Integral, Cordenaçao das Organizaçoes Indigénas da Amazonia, Cordillera Peoples Alliance, Consejo Regional Indígena del Cauca, Dakota Tipi First Nations, Democratic Progressive Party Taiwan, Demarcation, Dene Nation, Documentation Centre on Indigenous Peoples (DOCIP), Earth Action, Education International, Elder's Council of Shorski People, Ermineskin Cree Nation, Escuela Maya de Derechos Humanos Ixem-Che, Espacio Afroamericano, Ethnic Conflicts Research Programme, European Alliance with Indigenous People, Faira Aboriginal Corporation, Federación Indígena y Campesina de Imbanbura, Federación Interprovincial de Centros Shuar-Achuar, Federation des Organisations Amerindiennes de Guyane, Finno-Ugric People's Consultation Committee, Fondation Cabinda Libre, Fondazione Internazionale Lelio Basso per il Diritto e la Liberazione dei Popoli, Foundation Temereng Surinam Indigenous Council, Four Nations of Hobbema, Fourth World Indigenous Youth Conference, Free Kurdistan, Friends of People Close to Nature, Fundación Iriria, Fundación de Pueblos Indígenas, Fundación Raices, Goteborgs Stadsbibliotek, Gran Fraternidad Universal, Griqua National Conference of South Africa, Grupo Mulher Indigéna, Guatemalteca Indígena Promotora de Salud, Guyanese Organization of Indigenous Peoples, Hmong People - Lao Human Rights Council, Homeland Mission 1950 Maluku, Humanitarian Law Project, Humanity Foundation, Humanity Protection Forum, Ikatan Cendekiawan Tanimbar Indonesia, Incomindios, Indian Confederation of Indigenous and Tribal Peoples, Indigenous Knowledge Programme, Indigenous Peoples Program - Bank Information Center, Indigenous Women Aboriginal Corporation, Innu Nation, Insaf, Institute for Ecology and Action Anthropology, Instituto para el Desarrollo y Apoyo a las Secciones del Sur, International Alliance of Indigenous Tribal Peoples of

the Tropical Forests, International Human Rights Association for American Minorities, International Scholars for Indigenous Americans, International Third World Legal Studies Association, Intworlsa, Tonantzin Land Institute Jharkhand Organisation for Human Rights, Jumma Peoples Network, Ka la-Hui Hawai'i, Kanaka Maoli, Kashmir Democratic Forum, Kimberley Land Council, Kanaka Maoli Tribunal Komike, Kinnapa Development Programme, Kirat Koyu Rais' Uplifting Association, Kula Inc. Society for Cooperative Cultural Science, Kwanlin Dun First Nation, Kwia Flemish Support Group for Indigenous People, Kyushu Women's University & Jr. College, Lakota Nation, Lauravetl'an Foundation, League of Indigenous Sovereign Nations, Leonard Peltier Defense Committee, Louis Bull Cree Nation, Maa Development Association, Mandat International, Mapuche International Link, Mejlis of the Crimean Tatar People, Mena Nuria Foundation, Mohawk Nation Council of Chiefs, Montagnard Foundation, Montagnard Dega Association, Movement for the Survival of the Ogoni People, Movimiento de la Juventud Kuna, Movimiento Indio Tawantinsuyu, Movimiento Indio Tupay Amaru, Naga Peoples Movement for Human Rights, Naga Vigil Human Rights Group, National Aboriginal Community Controlled Health, National Chicano Human Rights Council, National Democratic Front, National Socialist Council of Nagaland, Nenets People, Nepal Federation of Nationalities, Netherlands Centre for Indigenous Peoples, New South Wales Aboriginal Land Council, Nitassinan Csia, Northern Land Council, Nyae-Nyae Farmers Co-operative, Office of Tibet, Organización Amaro Runa, Organización de Mujeres Aymaras del Kollasuyo, Organization for Survival of Il-Laikipiak Indigenous Maasai Group Initiatives, Organización Indígena de Antioquia, Organización Regional de las Mujeres Indígenas, Organization of Indigenous Peoples in Suriname, Pacific Asia Council of Indigenous Peoples, Pa-o Peoples Liberation Organization, Peabody Watch Arizona, Pemuda R.M.S. Maluku, Pro-Kanaka Madi Independence, Pueblos Indios, Rehab Hope Fund, Rehoboth Community of Namibia, Ricerca e Cooperazione, Rio Negro Komitee, Samson Cree Nation, Sasi, Secretariat of National Aboriginal Islander Child Care, Service Toureyho Temoust, Servicios del Pueblo A.C. Mixe, Shan State Organization, Shimin Gaikou Centre, Sioux Nation, Société Internationale de Linguistique, Society of Pitcairn Descendants Norfolk Island, Southern Kalahari Bushman Group, Summer Institute of Linguistics, Susila Dharma International, SSO, Tebteba Foundation, Temoust-Survie Touaregue, Terra Nuova, Teton Sioux Nation Treaty Council, Third World Movement Against the Exploitation of Women, Torres Strait Regional Authority, Traditions pour Demain, Tribal Act, Tribal Council - Treaty Four First Nations, United Liberation Front of Asom, United National Liberation Front of Manipur, Université de Strasbourg/Centre de Recherches Interdisciplinaires en Anthropologie, Université de Toulouse, Université Laval, University Centre for Development Cooperation, University of Copenhagen, University of Keele, University of New Mexico, University of Tromso, University of Victoria, University of Zurich, Unrepresented Nations and Peoples Organizations (UNPO), Wannyala-Aetto Foundation, Washitaw de Dugdah Moundyah New Iyet Oldest Indigenous People on Earth, West Papua Peoples' Front, Wimsa, World Sindhi Congress, World Tamil's Federation and Youth Resource Center on Human Rights.

12. In addition to the above-mentioned participants, 24 individual scholars, human rights experts and observers attended the meetings. More than 721 people attended the fourteenth session of the Working Group.

Documentation

13. The following documents were prepared for the fourteenth session of the Working Group:

Provisional agenda (E/CN.4/Sub.2/AC.4/1996/1);

Annotations to the provisional agenda (E/CN.4/Sub.2/AC.4/1996/1/Add.1);

Agenda (E/CN.4/Sub.2/AC.4/1996/1/Rev.1);

Working paper by the Chairperson-Rapporteur, Ms. Erica-Irene A. Daes, on the concept of "indigenous people" (E/CN.4/Sub.2/AC.4/1996/2 and Add.1);

Note by the Secretariat on health and indigenous peoples (E/CN.4/Sub.2/AC.4/1996/3);

Information received from indigenous peoples' organizations (E/CN.4/Sub.2/AC.4/1996/3/Add.1-5)

International Decade of the World's Indigenous People: Activities of the Centre for Human Rights, July 1995-June 1996 (E/CN.4/Sub.2/AC.4/1996/4);

Consideration of a permanent forum for indigenous people: note by the Secretariat (E/CN.4/Sub.2/AC.4/1996/5);

Compilation of extracts of declarations and programmes of action pertaining to indigenous people from high-level United Nations conferences (E/CN.4/Sub.2/AC.4/1996/5/Add.1);

Conclusions and recommendations of United Nations meetings of experts on issues relating to indigenous people (E/CN.4/Sub.2/AC.4/1996/5/Add.2);

Information received from indigenous peoples' organizations (E/CN.4/Sub.2/AC.4/1996/5/Add.4);

Report of the Expert Seminar on Practical Experience Regarding Indigenous Land Rights and Claims, Whitehorse, Canada, 24-28 March 1996 (E/CN.4/Sub.2/AC.4/1996/6);

Report of the Expert Seminar on Practical Experience Regarding Indigenous Land Rights and Claims, Whitehorse, Canada, 24-28 March 1996, Background papers (E/CN.4/Sub.2/AC.4/1996/6/Add.1);

Voluntary Fund for Indigenous Populations: Note by the Secretariat (E/CN.4/Sub.2/AC.4/1996/7);

Review of developments pertaining to the promotion and protection of human rights and fundamental freedoms of indigenous peoples: Information received from indigenous peoples' and non-governmental organizations (E/CN.4/Sub.2/AC.4/1996/8);

Extracts from the Habitat Agenda, the Global Plan of Action adopted by the second United Nations Conference on Human Settlements (Istanbul, 3-14 June 1996) (E/CN.4/Sub.2/AC.4/1996/CRP.1);

A short guide to environmental and intellectual property issues relating to indigenous peoples (E/CN.4/Sub.2/AC.4/1996/CRP.2);

List of organizations, prepared by the Secretariat (E/CN.4/Sub.2/AC.4/1996/CRP.3).

14. The following background documents were made available to the Working Group:

Draft declaration on the rights of indigenous peoples as agreed upon by the members of the Working Group at its eleventh session (E/CN.4/Sub.2/1994/2/Add.1);

Commission on Human Rights resolution 1996/38 on the Working Group to elaborate a draft declaration in accordance with paragraph 5 of General Assembly resolution 49/214 of 23 December 1994;

Commission on Human Rights resolution 1996/39 on the International Decade of the World's Indigenous People;

Commission on Human Rights resolution 1996/40 on the Report of the Working Group on Indigenous Populations of the Sub-Commission on Prevention of Discrimination and Protection of Minorities;

Commission on Human Rights resolution 1996/41 on a permanent forum for indigenous people in the United Nations system;

Commission on Human Rights resolution 1996/63 on Protection of the Heritage of Indigenous People;

Report of the Working Group on Indigenous Populations on its thirteenth session (E/CN.4/Sub.2/1995/24);

Final report of the Special Rapporteur, Ms. Erica-Irene Daes, on the protection of the heritage of indigenous people (E/CN.4/Sub.2/1995/26);

Study on treaties, agreements and other constructive arrangements between States and indigenous populations: second progress report submitted by Mr. Miguel Alfonso Martínez, Special Rapporteur (E/CN.4/Sub.2/1995/27);

Report of the Working Group established in accordance with Commission on Human Rights resolution 1995/32 of 3 March 1995 (E/CN.4/1996/84);

General Assembly resolution 50/157 on the Programme of activities for the International Decade of the World's Indigenous People;

The Habitat Agenda: Goals and Principles, Commitments and Global Plan of Action: Report of Committee I, Istanbul Declaration on Human Settlements (A/CONF.165/L.6/Add.10).

Organization of work

15. At its 1st meeting, the Working Group considered the provisional agenda, contained in document E/CN.4/Sub.2/AC.4/1996/1. Following a proposal by Mr. Alfonso Martínez, item 6 of the provisional agenda was amended by changing the title to "Study on treaties, agreements and other constructive arrangements between States and indigenous populations" and was moved to become item 8. Subsequently, item 8 "Consideration of a permanent forum for indigenous people" became item 6. The provisional agenda as amended was adopted.

16. The Working Group held nine public meetings, from 29 July to 2 August 1996. It decided to devote its 2nd and part of the 3rd meeting to standard-setting activities including a discussion on the concept of "indigenous peoples". Part of the 3rd, the entire 4th, 5th and 6th, and part of the 7th meeting were devoted to the sub-item on health and indigenous peoples of the item on review of developments. During the remaining part of its 7th and part of its 8th meeting the Working Group held a general debate on the review of developments. Also during the 8th meeting the working group considered the establishment of a permanent forum. During its 9th meeting the Working Group considered the International Decade of the World's Indigenous People, the study on treaties, agreements and other constructive arrangements between States and indigenous populations, and other matters. The 9th meeting was extended for three hours. In accordance with established practice, the Working Group met in private during its fourteenth session and the subsequent session of the Sub-Commission for the purpose of discussing pertinent matters and finalizing its report and adopting the recommendations therein.

Adoption of the report

17. The report of the Working Group was adopted on 15 August 1996.

I. GENERAL DEBATE

18. The Assistant Secretary-General for Human Rights and Coordinator of the International Decade of the World's Indigenous People, Mr. Ibrahima Fall, opened the fourteenth session of the Working Group on Indigenous Populations. He reported on the progress made by the Working Group established in accordance with Commission on Human Rights resolution 1995/32 of 3 March 1995 and reiterated the need for the participation of indigenous peoples. He also informed the Working Group of the establishment of an advisory group for the Voluntary Fund for the International Decade of the World's Indigenous People and the work it had undertaken so far to assist the Coordinator of the Decade. The members of the Advisory Group were: the members of the Board of Trustees of the Voluntary Fund for Indigenous Populations, the Chairperson-Rapporteur of the Working Group on Indigenous Populations, Ms. Erica-Irene A. Daes, representatives of three donor Governments, namely Canada, Denmark and Japan, and a representative from the United Nations Development Programme (UNDP). Mr. Fall referred to the review currently being carried out by the Secretariat of Activities undertaken by the United Nations system for indigenous peoples to facilitate the discussion on the establishment of a permanent forum for indigenous peoples within the United Nations. He noted that the Commission on Human Rights had decided to create a separate agenda item on indigenous

issues. He also referred to the ceremony and round table organized by the Centre for Human Rights at the Habitat II conference within the framework of the International Decade.

19. In her opening statement the Chairperson-Rapporteur, Ms. Erica-Irene Daes, gave an overview of the developments that had taken place with regard to indigenous issues in the past year. She stated that, in her opinion, the three critical issues to be resolved by the Working Group established in accordance with Commission on Human Rights resolution 1995/32 of 3 March 1995, were self-determination, representation and definition. Those important and complex issues should be considered at a later stage. During the next session of the Working Group on the draft declaration on the rights of indigenous peoples, therefore, less controversial issues should be considered. With regard to self-determination and representation, Governments' fears for their territorial integrity and their resulting disinclination to grant indigenous people internal self-government were short-sighted; the only way for Governments to ensure the territorial integrity of their States was to share power at all levels through accommodation, participation and compromise. She referred to her working paper on the concept of "indigenous people" (E/CN.4/Sub.2/AC.4/1996/2) and repeated her conclusion that it was neither possible nor useful to define indigenous peoples because of their diversity.

20. She reminded the participants of the different approach that the Working Group had adopted this year by choosing health as the focus of the discussions under the agenda item entitled "review of developments". She reiterated the importance of the issue for the survival of indigenous peoples and hoped that the cooperation initiated with the World Health Organization would continue within the framework of the International Decade and beyond. Speaking of the International Decade, she emphasized that there was a need for more operational action and cooperation between the relevant United Nations agencies, more contributions to the Voluntary Fund for the International Decade, and more political commitment by the United Nations for the establishment of a permanent forum.

21. At the 5th meeting, the High Commissioner for Human Rights, Mr. José Ayala Lasso, welcomed the participants. He praised the Working Group for its achievements over the last years, in particular for its work in preparing the draft declaration on the rights of indigenous peoples and for having inspired the International Year and Decade of the World's Indigenous People. He expressed his gratitude to the Government of Canada for its initiative in hosting the Expert Seminar on Practical Experiences relating to Indigenous Land Rights and Claims, held in Whitehorse in March 1996. He also spoke of the importance of health for indigenous peoples and expressed his appreciation to the World Health Organization for participating in the Working Group. The High Commissioner affirmed his support for the proposed permanent forum for indigenous people. In closing, the High Commissioner reiterated his support for the Working Group and wished the members success in their work.

22. In her closing statement the Chairperson-Rapporteur reported that the 1995 session had been extremely well attended: 44 observer Governments, 12 United Nations and intergovernmental organizations, 232 indigenous nations, organizations and communities, non-governmental organizations and a large number of individual experts and scholars had participated.

23. The indigenous representatives attending the Working Group had sent a clear message to the Working Group on the question of definition: they considered that a "scientific" definition of indigenous peoples was difficult. Ms. Daes agreed with the view of some Governments that the concept of indigenous people should be universal and flexible. The Working Group would continue its discussion on the issue to obtain a better understanding of the concept of indigenous people. The new approach of the Working Group to address the issue of health as the focus of the discussion under the agenda item review of developments had been a success which she attributed in large part to the commitment and cooperation of the World Health Organization. The Human Genome Diversity Project appeared to be of great concern to indigenous representatives. The Working Group should reflect on whether it would be desirable to adopt the same approach at its next session.

24. The Chairperson-Rapporteur reiterated the importance of a permanent forum for indigenous peoples within the United Nations and thanked the Government of Chile for its willingness to host a second workshop on that issue. She expressed the hope that the International Decade of the World's Indigenous People would be a springboard for an agenda for indigenous sustainable development in all areas: human rights, environment, development, education, culture and health. The study on treaties, agreements and other constructive arrangements between States and indigenous populations was a highly complex task and she thanked the Special Rapporteur, Mr. Miguel Alfonso Martínez, for the work undertaken so far.

25. She expressed her gratitude and deep appreciation to the Secretariat, to the volunteers who had assisted during the session, and to the Documentation Centre on Indigenous Peoples (DOCIP) and the Unrepresented Nations and Peoples Organization (UNPO) for providing substantive technical support to indigenous peoples. She also expressed her gratitude and appreciation to the United Nations Department of Public Information and in particular to its Director, Mrs. T. Gastaut, for their press releases and the organization of a press interview with the Chairperson-Rapporteur, three indigenous persons and two representatives of the World Health Organization.

II. EVOLUTION OF STANDARDS CONCERNING THE RIGHTS OF INDIGENOUS PEOPLES

26. At its thirteenth session, the Working Group on Indigenous Populations decided to recommend to the Sub-Commission that the Chairperson-Rapporteur, Ms. Erica-Irene A. Daes, be entrusted with the preparation of a working paper on the concept of "indigenous people". The recommendation of the Working Group was subsequently approved by the Sub-Commission in resolution 1995/38 and by the Commission on Human Rights in its resolution 1996/40. In introducing the item on the evolution of standards concerning the rights of indigenous peoples at the fourteenth session of the Working Group, the Chairperson-Rapporteur presented her working paper on the concept of "indigenous people" contained in document E/CN.4/Sub.2/AC.4/1996/2.

27. The Chairperson-Rapporteur gave a brief overview of her working paper which gives a historical review of international practice, provides a critical legal analysis, and offers some conclusions and recommendations. The Chairperson-Rapporteur said that her analysis of the concept of "indigenous people" was of a preliminary nature and had the principal aim of promoting

continued discussion of the question at the Working Group on Indigenous Populations as well as at the open-ended inter-sessional working group of the Commission on Human Rights on the draft declaration.

28. No single definition could capture the diversity of indigenous peoples worldwide, and all past attempts to achieve both clarity and restrictiveness in the same definition had resulted in greater ambiguity. Furthermore, it was not desirable or possible to arrive at a universal definition.

29. The only immediate solution, based on the experience of the Working Group, was a procedural one. In certain cases the working definition proposed by Special Rapporteur Martínez Cobo should be used. The eventual implementation of the United Nations declaration on the rights of indigenous peoples, when proclaimed by the General Assembly, should be entrusted to a body which was fair-minded and open to the views of indigenous peoples and Governments, so that there was room for the reasonable evolution and regional specificity of the concept of "indigenous" in practice.

30. At the 2nd meeting, Mr. Juma, Executive Director of the Secretariat for the Convention on Biological Diversity, made a statement regarding the Convention. He gave an overview of the objectives of the Convention, which are the conservation of biological diversity, the sustainable use of its components and the fair and equitable sharing of the benefits arising out of the utilization of genetic resources. He drew attention to article 8 (j), 10 (c), 17, paragraphs 2 and 18, paragraph 4 of the Convention, which were of particular relevance for indigenous peoples. The Convention was not an international agency with its own implementation mechanism; rather, the Convention was to be implemented directly by the Contracting Parties. Mr. Juma also informed the Working Group about two important meetings concerning the Convention and invited the participants to take part.

31. The indigenous peoples present at the indigenous peoples preparatory meeting which was held prior to the fourteenth session of the Working Group presented a joint resolution on the concept and definition of indigenous peoples: The text read as follows:

> "We, the Indigenous Peoples present at the Indigenous Peoples Preparatory Meeting on Saturday, 27 July 1996, at the World Council of Churches, have reached a consensus on the issue of defining Indigenous Peoples and have unanimously endorsed Sub-Commission resolution 1995/32. We categorically reject any attempts that Governments define Indigenous Peoples. We further endorse the Martínez Cobo report (E/CN.4/Sub.2/1986/Add.4) in regard to the concept of 'indigenous'. Also, we acknowledge the conclusions and recommendations by Chairperson-Rapporteur Madame Erica Daes in her working paper on the concept of indigenous peoples (E/CN.4/Sub.2/AC.4/1996/2)."

32. Many indigenous representatives made statements in which they reiterated and endorsed the consensus statement, and said that it was neither desirable nor necessary to arrive at a universal definition of indigenous peoples. Furthermore, many indigenous representatives pointed out that there was no definition of the terms "minorities" and "peoples" in international law, and that indigenous rights therefore also could be implemented without a definition of "indigenous peoples".

33. Many indigenous representatives, as well as some government representatives, stated that it was not necessary to arrive at a universal definition of indigenous peoples in the context of the draft declaration. Although some Governments said that they recognized the concerns of countries with complex ethnic and historical circumstances, they also considered that the criteria of the Martínez Cobo report and ILO Convention No. 169 were adequate to determine whether a person or community was indigenous or not. Some indigenous representatives also expressed the view that if an explicit definition were included in the draft declaration, it could be used to prevent some indigenous peoples from benefiting from the moral, political and legal impact of the declaration.

34. The observers for Bangladesh, India and Nigeria said that a definition of indigenous people was essential if the cause was to move forward. The observer for Bangladesh said, inter alia, that a definition was an essential step in institutionalizing guarantees for safeguarding the rights of indigenous people. He also stated that ambiguity or absence of criteria could be a convenient cover for States to deny or grant recognition of indigenous status, since there would be no international standard to go by. He also referred to the opening statement of the Assistant Secretary-General for Human Rights who had spoken of an estimated 300 million indigenous people in the world and recalled his query made last year concerning the basis for the figure and the criteria on which it had been calculated. He also stated that since Bangladesh's population of 120 million were all indigenous, based on the quoted figure, the Secretariat only had to account for the remaining 180 million indigenous people. The Chairperson-Rapporteur explained that the estimate had been made some years ago by the World Bank which had considerable statistical resources and the Secretary-General himself had used this number in almost all of his relevant statements and, in particular, in his address to the General Assembly on the occasion of the International Year of the World's Indigenous People. The observer for India expressed the view that the Working Group, by avoiding the critical issues of identifying through a definition the actual beneficiaries of the concept, would lose its focus on the human rights questions of the truly indigenous peoples. The observer for Nigeria said that a clear-cut definition was necessary to identify the essential distinction between indigenous peoples and minorities.

35. Many indigenous representatives stated that indigenous peoples' self-identification as a distinct people or collectivity was the fundamental element in the determination of who were indigenous. Integral to their right to self-determination was the right to determine who they were without outside interference. They had the right to identify themselves as indigenous peoples for the purposes of international standards and domestic law without interference from States. Some indigenous representatives said that States which continued to deny them the right to identify themselves would be continuing the oppression and colonization of indigenous peoples.

36. Many indigenous representatives made references to the criteria in the Martínez Cobo report and to the working paper on criteria which might be applied when considering the concept of indigenous peoples (E/CN.4/Sub.2/1995/3) which contained adequate guidelines for the identification of indigenous peoples. Factors such as clear indigenous self-identity, distinct culture and social organization, antecedence, and attachment to a particular territory were essential in this regard.

37. The observer for India said that there was no reason why a definition which distinguished "tribals" from "indigenous" should lack scientific or logical credibility. For his delegation "tribal" referred to a social structure while "indigenous" did not. Furthermore, the logical extension of any attempt to equate "tribals" with "indigenous" would be equivalent to saying that all "non-tribals" were "non-indigenous".

38. The observer for the International Labour Organization made references to the two relevant ILO Conventions, No. 107 and No. 169, in which the term "indigenous and tribal" is used in order to avoid the restricted literal sense of the word "indigenous". He said that the term "indigenous and tribal" included all peoples in a similar situation, wherever they may be found and whether or not their ancestors inhabited an area before others did. The ILO would prefer that a statement of coverage similar to that contained in article 1 of Convention No. 169 should be adopted. However, it might prove necessary to include in the text of the declaration a statement of coverage, which should be consistent with existing international law but which should not consist of a definition in the strict sense.

39. The observer for Bangladesh said that it would be erroneous to look for indigenous people worldwide based on a Native American stereotype. Recalling Commission resolution 1996/40 which referred to the diversity of the world's indigenous people, he said that their situation ranged from marginalization to mainstream, from non-recognition of traditional identity to recognition as a sovereign people, and that vulnerability and marginalization should not automatically be read into the indigenous model.

40. An indigenous representative from Asia said that the view of the Government of India expressed at the Working Group was not consistent with its position in its dealings with the World Bank, with which it acknowledged the existence of indigenous people in the country.

41. Some indigenous representatives said that some Governments opposed the use of the term "indigenous peoples" owing to the specific reference to self-determination in the draft declaration. Some Governments refused to recognize that indigenous peoples possessed the right of self-determination because they were afraid that it would give rise to the justification in international law to a right of secession and independence for indigenous peoples. There were many provisions and conditions in international law that prevented the abuse of the right to self-determination, in particular limiting the use of the right of self-determination to dismember States that respected the right. On the contrary, continued denial of the right could be a source of instability in a State.

42. Mr. Alfonso Martínez referred to his second progress report on the study on treaties, agreements and other constructive arrangements between States and indigenous populations (E/CN.4/Sub.2/1995/27), in which he reflected on "the minority/indigenous people dichotomy". Mr. Alfonso Martínez said that he did not have any problems with accepting that indigenous peoples had the right to identify themselves. However, at the international level, self-identification could not be reserved as an exclusive right of indigenous peoples. That criterion would not make much sense with regard to situations in Africa and Asia and could create very serious conceptual and practical problems. He said that the immediate challenge was to define groups which were not indigenous peoples. It was nevertheless unacceptable to argue that no progress could be

made in the process of drafting the declaration until a definition of "indigenous peoples" was accepted by the United Nations. Mr. Guissé also expressed the view that a definition of indigenous peoples would be useful, and should be developed for the sake of clarity. However, there existed no definition of the term "peoples" in international law. What might be achieved is a set of criteria rather than a precise definition of "indigenous peoples". The concepts "self-identification" and "self-determination" were different and should not be confused.

43. The observer for Australia considered that it was not necessary for the purposes of advancing the rights of indigenous peoples to try to arrive at an all-purpose definition of indigenous peoples. The observer for Chile stated that a definition of indigenous peoples was not necessary in the Latin American region nor was it indispensable for the debate on the indigenous theme. Any difficulties related to the question of definition should not cause delays for other activities for indigenous peoples, such as the proposal to establish a permanent forum. The observer stressed the importance of self-identification as a determining factor.

44. A representative of some of the indigenous peoples of Central and South America referred to numerous statements made on the question of definition by indigenous organizations and stated that it would be an error and discriminatory for one group of human beings to try to define another. The identity of a people was not definable but should be recognized and respected.

45. The observer for Finland stated that his Government was open to all constructive solutions to the question of the concept of indigenous peoples. He was prepared to accept a pragmatic solution not to define the term legally but to leave the question to be resolved by indigenous peoples themselves with their respective Governments. The observer for Brazil agreed with the Chairperson-Rapporteur that a definition was not possible or useful and that the concept should have a universal application.

III. REVIEW OF DEVELOPMENTS PERTAINING TO THE PROMOTION AND PROTECTION OF HUMAN RIGHTS AND FUNDAMENTAL FREEDOMS OF INDIGENOUS POPULATIONS

A. General

46. In opening this agenda item, the Chairperson-Rapporteur reminded all participants that the Working Group was not a chamber of complaints and asked all participants to speak to the point, to be as brief as possible, to respect the right of others to speak and to avoid making any accusations against Governments.

General principles

47. As in previous years, several indigenous representatives reported on situations of assimilation and oppression and the continued denial to their peoples of the right to self-determination. Other indigenous representatives informed the Working Group on progress made with regard to this issue.

48. An indigenous representative from Canada reported that, a few days prior to a referendum held by the province his people resided in on the issue of secession from a federation, his people had also organized a referendum in

which 96 per cent of them had voted to keep their own territory in the federation. He said that leaders of the province had declared that the province had a right to self-determination but that such a right did not belong to his people. He saw that as a demonstration of the existence of a double standard based on race with regard to the recognition of the right to self-determination. An indigenous representative from Russia stated that his national Government had failed to adopt a federal law for the protection of the indigenous peoples of his country.

49. Several indigenous representatives from the Pacific reported on a State-organized native vote meant as a means to exercise the right to self-determination. One of the representatives stated that the vote was State-orchestrated, did not provide his people with a real choice, and that its outcome was predetermined. Another representative referred to a fact-finding mission by a non-governmental organization that had called for cancellation of the ballot because of a lack of awareness by voters of what they were voting for, a lack of real choice, flaws in the mail-in balloting systems that could lead to fraud, lack of verification that non-indigenous people did not vote and lack of neutrality on the part of the organizing agency.

50. The observer for Canada informed the Working Group of a new federal policy for the implementation of the inherent right of Aboriginal self-government which was based on an analysis of constitutional factors, past experience and consultations with Aboriginal people, provincial and territorial Governments, and other interested parties. He gave some examples of elements of that policy, among which were: Aboriginal self-government must operate within the constitutional framework of Canada and was best implemented through negotiation; self-government in matters that were internal to Aboriginal communities and integral to their distinct cultures was recognized by the Government of Canada; and the policy was designed to be flexible, to meet the diverse needs and circumstances of Métis, Inuit and First Nations Peoples, with and without land. He also reported on negotiations that had been initiated and agreements signed.

Life, integrity and security

51. An indigenous representative from Latin America stated that his people were subject to State interference despite constitutional guarantees and were under threat of the use of military violence to enforce a new law affecting indigenous peoples. Another representative from the same region stated that a civil war had destroyed the social cohesion of the indigenous communities, forcing indigenous peoples to become refugees but that, with the help of some non-governmental organizations, they were now slowly rebuilding their communities.

52. An indigenous representative from North America reported on the forced relocation of his people under his country's laws, and the physical and mental impact on his people caused by that relocation. He also reported on certain regulations which extended police powers of enforcement. Another representative from North America informed the Working Group that a governmental plan to use the military to collect taxes from indigenous peoples had been exposed. Thus, indigenous peoples felt they were now negotiating with a gun at their heads on that issue.

53. An indigenous representative from Asia reported on grave human rights violations, such as abductions, torture and beatings, committed by the military with impunity. Another representative from the same region stated that indigenous peoples were displaced to make way for development projects, with hardly any relocation projects. Yet another indigenous representative informed the Working Group that indigenous activists were targeted by authorities in the region, leading to people becoming refugees, incarceration, kidnapping and murder.

54. An indigenous representative from Africa informed the Working Group of governmental oppression leading her people to become refugees, which made it difficult for them to maintain their identity and traditions. An indigenous representative from Oceania reported that the indigenous peoples of her country were facing a new period of political uncertainty following the national elections held earlier in the year that had brought to office a Government with a hostile attitude to indigenous affairs.

Culture, religious and linguistic identity

55. An indigenous representative from Africa informed the Working Group that the denomination used to identify his people was a colonial denomination and that the non-recognition of a separate status for his people under their own name led to the creation of two classes of citizen with different rights, which facilitated genocide. Another representative from Africa stated that the leadership of his people was negotiating with the national Government to obtain equal recognition and treatment with other traditional people.

56. An indigenous representative from Asia reported that under national law his people were now allowed to adopt their own name and to set up organizations. An indigenous representative from North America stated that a recent poll had shown that the people in the country where he lived thought that the indigenous peoples of that country had a standard of living at least equal to that of the average citizen. He believed that that was a deliberate government policy to create the circumstances to reduce programmes for indigenous peoples.

57. The observer for the United States of America informed the Working Group that his President had signed an executive order directing all land management agencies to accommodate Indian religious practices to the extent permitted by law, including ensuring access to sacred sites and avoiding negative effects on the physical integrity of the such sites.

Education and public information

58. The representative of a non-governmental organization working in the field of education informed the Working Group that at the first congress held by her organization a resolution had been adopted which had been promoted by indigenous teachers, members of the organization. She stated that the resolution provided direction to teachers' organizations at the national and international levels concerning respect for the rights of indigenous peoples. The members of the organization, through the resolution, had stated their support for the right to self-determination of indigenous peoples, the establishment of a permanent forum and the involvement of the organization in

the Working Group, and had directed the organization to promote education that recognized and supported indigenous peoples' identities and to work with intergovernmental organizations and United Nations specialized agencies to ensure that education systems used curricula that accurately reflected the history, culture and contemporary lifestyles of indigenous peoples.

59. An indigenous representative from Asia said that, in the country where he resided, a national committee headed by the Prime Minister had been set up within the framework of the United Nations Decade of Human Rights Education, but no indigenous person had been accepted as a member of that committee. Another representative from Asia said that the children of his people had been sent to schools where they were taught in English and had to learn about an alien religion; they also had to wear uniforms.

60. The representative of the United Nations Human Rights Verification Mission in Guatemala (MINUGUA) informed the Working Group that MINUGUA had launched a major programme to disseminate the Agreement on the Identity and Rights of Indigenous Peoples among indigenous communities and other sectors of society in Guatemala, and had supported the efforts of the Academy of Mayan Languages to have the agreement translated into nine Mayan languages. He also reported that, at the specific request of indigenous organizations in Guatemala, indigenous professionals had been recruited from Chile, Ecuador, Mexico and Panama. He also informed the Working Group that MINUGUA had recently embarked on a series of radio programmes ensuring that aspects of the Agreement were broadcast in indigenous languages in all areas of the country.

61. The observer for New Zealand stated that education was an area in which her Government was seeking to address the disparity gap in achievement and participation between Maori and non-Maori. She reported that, at the preschool level, New Zealand now had nearly 700 Maori "language nests" providing for half of all Maori preschool children enrolled in early childhood centres. She informed that Working Group that the 1990 Education Act had given legislative recognition to the establishment of tertiary institutions based on the application of knowledge regarding Maori tradition and culture, called wananga. Two of those institutions were currently operating, with a third likely to attain wananga status in 1997. Recently, her Government had also focused on the development of the final curriculum written in Maori for Maori Language, Mathematics and Science and the curricula for Social Studies and Technology were in the process of completion. Lastly, she stated that her Government was developing a Maori Language Strategic Plan and an Education Strategy for Maori.

Economic and social rights

62. An indigenous representative from the Far Eastern Arctic region informed the Working Group that the Government of the country in which he lived had established an employment programme in conjunction with an enterprise development scheme. His people were now trying to develop their own mining initiatives. An indigenous representative from Asia said that 10 years previously both foreign and local enterprises had started pearl farms in his region, using modern diving equipment and bringing in large groups of transmigrants as divers. This had made the local indigenous divers redundant and forced them into poverty.

63. An indigenous representative from South America pointed out that the globalization of markets, capital and business as promoted by the World Bank, the International Monetary Fund and the international development agencies had resulted in increased poverty and unemployment, as well as exclusion, hunger and disease, for indigenous peoples.

64. The observer for Norway said that it appeared that the Sami had special health and social problems that might be linked to their ethnic and socio-cultural status in Norway. The causes of that situation identified in the Plan for Health and Social Services for the Sami Population in Norway included pollution of the natural environment and the process of adjustment due to changes in the Sami's industrial base, which had a particular impact on reindeer husbandry. That adjustment had led to increased unemployment and social upheaval, with increased risk of health and social problems. The findings of the report would strengthen programmes to improve social services for the Sami people.

Land and resources

65. Several indigenous representatives informed the Working Group of situations involving the loss of their lands, displacement from or denial of access to their lands and degradation of their lands through mineral extraction and logging activities without benefit-sharing.

66. An indigenous representative from South America stated that the newly elected Government of the country in which he lived did not recognize a land settlement agreement concluded between his people and the former Government and had taken the case to court. Another representative from South America stated that the land demarcation process in the country in which he lived had been amended by a decree whereby third parties could appeal decisions to demarcate land for which the regularization procedures had not yet been completed. That had created great unrest among the indigenous peoples living in the country.

67. An indigenous representative from Oceania stated that the newly elected Government of the country in which she lived had responded to the demands of industry and critics within its own ranks and had moved to amend, on the basis of lack of workability, an act dealing with native title under which indigenous communities made claims for title to traditional lands. She said that the workability of the act had never been properly tested and that the proposed amendments would diminish the rights of indigenous peoples, especially the right to negotiate the use of their lands. However, the principle of native title had recently received a boost when a big multinational mining company had withdrawn its request for legislative support from State and federal Governments to override the said legislation and had subsequently announced that it would now negotiate with indigenous communities affected by its intended mining activities.

68. An indigenous representative from Asia reported that a mining operation in the region where her people lived had not only led to environmental degradation, but also to rioting among the indigenous peoples affected, which in turn had led to killing and torture by security forces. An indigenous representative from North America stated that federal courts had denied a

mining company a concession on indigenous territory. Another indigenous representative from the same region reported that the lands of his people were used as a dumping site for toxic waste.

69. The observer for Brazil explained to the Working Group that the administrative procedure for demarcation of indigenous lands in Brazil had been questioned before the Supreme Court for not taking into account what was known as the principle of administrative contradiction. In order to bring the procedure into line with legal and constitutional arrangements and to avoid further questioning before the courts, some modifications had been made to the procedure through Decree 1.775 of 8 January 1996. It had been the intention of the Government of Brazil to increase the transparency of and expedite the procedure for demarcation by establishing deadlines and strengthening the legal basis for implementation. Furthermore, that Decree provided the opportunity to appeal decisions to demarcate indigenous lands whose regularization procedures had not yet been completed. Such appeals had to be filed within 90 days of the issuance of the Decree, which meant that the deadline had expired on 8 April 1996. On 10 July 1996, the Minister of Justice of Brazil had decided to reject all 535 appeals which had been received, concerning 34 indigenous lands.

70. The observer for Australia reported that, despite high expectations, no title had been recognized yet under the Native Title Act, causing widespread concern in both the indigenous and the wider community. His Government was committed to ensuring the workability of the Act, while respecting the principles of the Racial Discrimination Act. He also said that changes to the Native Title Act were a priority, but would be preceded by wide consultations. His Government was conscious of the need to balance the recognition and protection of native title with the economic development of Australia.

71. The observer for Canada informed the Working Group of the signing of a historic framework agreement on land management, in February 1996, between Canada and 13 First Nations from across the country, which would enable the communities to manage and control their lands and resources. Furthermore, the Minister of Indian Affairs and Northern Development had announced that negotiators had initialled an agreement-in-principle on treaty land entitlement with 19 Manitoba First Nations, which was a milestone in the resolution of long-standing treaty land entitlement issues in Manitoba.

72. The observer for New Zealand recalled that the previous year the New Zealand delegation had explained the Government's draft proposals for the settlement of Treaty of Waitangi claims, proposals that responded to a need for a consistent approach by the Government to the large number of individual claims lodged with the Waitangi Tribunal. The proposals were currently being reviewed in the light of submissions received. Those submissions tended to be critical of the settlement proposals, but provided much valuable comment. While the process of policy review was under way, discussions were continuing between the Crown and several tribal groups regarding their claims. She informed the Working Group that earlier in the year an on-account settlement had been reached with the Ngai Tahu tribe of the South Island and formal negotiations were under way regarding the settlement of the remainder of their claim, following the historic settlement concluded in 1995 with the

Waikato-Tainui people, in which the equivalent of 170 million dollars in land and cash was paid as compensation for lands confiscated in the nineteenth century.

73. A number of indigenous representatives called for the protection of indigenous heritage and intellectual property. In that respect, the representative of a non-governmental organization said that a group of Spanish intellectuals and artists had adopted a declaration in which they pledged to respect the intellectual property rights of the indigenous peoples of Latin America.

Indigenous institutions

74. Several indigenous representatives stated that programmes and projects developed to improve the situation of indigenous peoples had to be culturally appropriate and to respect indigenous institutions.

Implementation

75. The representative of the International Labour Organization (ILO) stated that ILO Convention No. 169 concerning Indigenous and Tribal Peoples in Independent Countries had now been ratified by 10 countries (Bolivia, Colombia, Costa Rica, Denmark, Guatemala, Honduras, Mexico, Norway, Paraguay and Peru), while several countries were considering ratifying it, some of them with a view to orienting their programmes of foreign assistance. The influence of that Convention went well beyond the number of ratifications; she referred to inter-agency coordinating meetings and technical assistance projects. Among other activities, ILO had assisted the Government of the Russian Federation in adopting legislation for the indigenous peoples of the country, had assisted the United Nations in the drafting of the component of the Guatemala peace plan entitled "Identity and rights of indigenous peoples", had promoted the Interregional Programme to Support Self-Reliance of Indigenous and Tribal Communities through Cooperatives and other Self-Help Organizations (INDISCO) and the Community-based Environment Impact Assessment (CEIA).

76. The representative of MINUGUA stated that it had been given the important task of verifying the implementation in Guatemala of the Agreement on the Identity and Rights of Indigenous Peoples. The Agreement covered a number of the most important demands and claims of the indigenous peoples of Guatemala, among which the most important aspect was that the Agreement empowered indigenous organizations to negotiate their future legal rights on an equal footing with the Government. To that effect the Agreement provided for the creation of several joint commissions to make the necessary proposals for educational reform, indigenous participation, indigenous land rights, official recognition of indigenous languages and the identification of sacred Mayan sites.

B. Health

77. In her statement on this item, the Chairperson-Rapporteur thanked warmly the World Health Organization for the support and enthusiasm with which it had welcomed the Working Group's initiative to include a sub-item on health on its

agenda. She continued by highlighting four general policy considerations she believed to be important. She stated that the close relationship indigenous peoples had with their land should be taken into account because the loss of land could, for example, lead to a change in nutrition. In her opinion, dispossession might therefore be regarded as an indirect threat to life, and should be recognized as such by the international community. She also said that the exposure of indigenous peoples to hazardous industrial and military activities was a form of racism, because she considered it to be a deliberate policy. Furthermore, she referred to the fact that indigenous peoples did not have equal access to national health-care systems, mainly because of language difficulties, poverty, geographical isolation, and their differing notion of illness and cure. Finally, she addressed the role traditional medical practices could play in national primary health-care systems and the need to protect those practices from exploitation.

78. Based on these four points, the Chairperson-Rapporteur suggested six specific, concrete actions the international community - perhaps with the leadership of WHO - could take to address the principal threats to the health of indigenous peoples: it could finance and organize a programme of research on the nutritional and health impacts of development projects; establish an effective procedure for identifying, publicizing and responding medically to new health emergencies created by destruction, contamination or expropriation of indigenous lands; identify organizations controlled by indigenous peoples which had expertise in medical research, training and health care, and provide them with technical and financial assistance to enable them to share their experiences with indigenous people and Governments in other regions of the world; develop and promote, in cooperation with indigenous people, model national legislation for the recognition and protection of traditional medicinal knowledge; develop and promote, in cooperation with indigenous peoples, strict ethical standards governing medical research that involves indigenous peoples or their traditional knowledge; and establish, if possible, a unit within WHO to audit national health programmes.

79. At the 4th meeting, Mr. Eric Goon, Director of the WHO Division of Organization and Management of Health Systems, presented a speech on behalf of the World Health Organization and in particular on behalf of the Assistant Director-General, Dr. A. Kone Diabi. He recalled the World Health Organization's goal of "Health for all" and stated that WHO priority lay with those that had little or no access to health care. He said that one of the constitutional principles of WHO included the precept that health was a state of complete physical, mental and social well-being and not merely the absence of disease or infirmity. He explained that today the universal concern was about costs, value and resource constraints and that, at a time when demands for expanded services and high quality were expanding, the result was an increasing gap between demand and response which could not be ignored. He identified the strategies to overcome the gap as including: overcoming inertia; establishing priorities; ensuring community and broad-based intersectoral participation; global solidarity; improving solidarity; improving efficiency; learning-by-doing; and global solidarity. Furthermore, the Governing Body of WHO subscribed to the goals of the International Decade of the World's Indigenous People. He also stated that for the coming decade there was no challenge more compelling than that of improving the health of

vulnerable and high-risk groups and that ingenuity and innovative thinking would be needed to find new ways of overcoming "entrenched" problems.

80. An indigenous representative of WHO reported on a global indigenous peoples and substance use project. She stated that the aim of the project was to assist in the healthy development of indigenous peoples and communities through the prevention and minimization of problems related to psychoactive substances. The latter term was the term used by WHO to describe alcohol, tobacco, other drugs and various substances that people used, which, when ingested, affected the mental processes and behaviour. She further said that the project had been developed in close cooperation with indigenous peoples. Three action documents had been prepared in connection with the project: "Community development strategies"; "Policy guide for Governments"; "Community monitoring"; and "Evaluation methods". The project would eventually become part of the WHO Programme on substance abuse and WHO would welcome seconded indigenous persons, like herself, to assist in the implementation of the project.

81. A representative from the Pan-American Health Organization (PAHO) stated that PAHO, in 1993, the International Year of the World's Indigenous People, had embarked on a joint venture with the region's indigenous peoples to consider what PAHO and its member Governments should do about the health situation of the indigenous peoples of the region. She said that, in cooperation with indigenous peoples, the Health of Indigenous Peoples Initiative had been established, resulting in the development of five principles to guide, monitor and evaluate the work; the need for a holistic approach to health; the right to self-determination of indigenous peoples; the right to systematic participation; respect for and revitalization of indigenous cultures; and reciprocity in relations. By 1995 a plan of action had been developed, dividing the work into four areas: to establish criteria, methodologies and training programmes to enable the development of national and local plans, policies and processes to benefit the indigenous peoples of the country; to design and mobilize resources for projects which address priority health problems and vulnerable populations; to develop and strengthen traditional health systems; and to identify and develop efficient mechanisms to coordinate, promote, disseminate and exchange scientific and technical information. She concluded by referring to partners and programmes with which PAHO would implement the Initiative, which included cooperation with indigenous organizations and internship programmes for indigenous people.

82. To illustrate the imbalance in health standards between indigenous and non-indigenous people and their overall health situation, many indigenous representatives provided the Working Group with relevant statistics. For example, an indigenous representative from North America stated that, in his country, non-indigenous people lived 10 years longer than indigenous people, that the incidence of diabetes was four and half times greater among indigenous people than among non-indigenous people and that of tuberculoses nine times greater, and that their rate of disability was twice as high and their suicide rate two and a half times as high. Similarly, an indigenous representative from South America reported that the infant mortality rate among indigenous people in a certain region of his country was 300 per 1,000,

life expectancy between 35 and 40 years and that 82.9 per cent of the indigenous people in that region were infected with viral hepatitis B, while 17.1 per cent are carriers.

83. An indigenous representative from Oceania reported that babies born to indigenous mothers had an average birth weight over 200 grammes less than the national average, that the maternal mortality rate for indigenous women was over five times greater than that for non-indigenous women, that the tuberculosis rates among indigenous people were 10 times higher, as were the leprosy and hepatitis A rates, and that only two out of every five indigenous men in his country were expected to live beyond their sixty-fifth birthday, compared to three out of every four non-indigenous men.

84. Several other indigenous representatives, without giving numbers, also spoke about the high incidence of diseases like malaria, tuberculosis, cancer, heart disease, diabetes, emphysema, infectious diseases, including HIV and AIDS, and risk factors such as malnutrition, obesity, hypertension and drug and alcohol abuse. In addition, an indigenous representative from Africa stated that diseases and health problems among the children of his people lead to absenteeism from school, poor school performance and deprivation of better opportunities in later life.

85. A number of indigenous representatives were of the opinion that the health situation of indigenous people could not be separated from the dispossession from lands and territories, the destruction of traditional, social and economic structures and denial of human rights indigenous peoples have faced in the past and were still facing. In that respect, an indigenous representative from Oceania stated that the dispossession of his people and the marginalization of and discrimination against the cultural heritage of his people made it obvious that the ill-health of his people was largely a by-product of the processes that had denied them their rights and freedoms over the past centuries.

86. An indigenous representative speaking about the situation in Eastern Europe explained that the cultural collapse of an indigenous society through discrimination, colonialism and lack of strategies to respect indigenous peoples' rights had had a severe impact on the health of indigenous peoples. An indigenous representative from Latin America stated that current Governments had taken over the role of the initial colonizers, who had brought indigenous peoples to the verge of extinction, by denying indigenous peoples access to their lands and resources and implementing policies of assimilation and structural adjustment, making indigenous peoples dependent on Western systems of economy, health, education, etc., but then failing to deliver equal services and opportunities. Several indigenous representatives considered that in one way or the other the practical exercise of self-determination was the necessary foundation for any real and sustainable improvement in the health situation of indigenous peoples. An indigenous representative from Africa stated that loss of their ancestral territories and resources lead to the breakdown of his people's food production system, resulting in lower food intake, as well as nutritional deficiencies, and creating a dependence on cheaper, inequitable and unhealthy foodstuffs from outside.

87. Many indigenous representatives highlighted the relationship between the environment indigenous peoples live in and their health situation. An indigenous representative from Asia stated in that respect that indigenous peoples looked upon themselves as an integral part of nature and that indigenous communities managed to sustain an ecological balance through practising certain habits and living by certain norms, thus creating a "tribal ecosystem". However with the total change brought about in the wake of development and modernization, there had been a near total disintegration of the "tribal ecosystem" and the accompanying health-care system owing to changes in food procurement, care and prevention of diseases, protection from animals, nurturing and child care, sanitation and psychological satisfaction.

88. Another indigenous representative from the same region underlined that the symbiotic relationship with the forest, along with convivial living conditions, had enabled her people to evolve progressively and develop a complex and sophisticated health care management system that went beyond the bio-medical sphere into the social, cultural and environmental spheres in a holistic sense. She continued by stating that systematic and intensified internal colonization, both national and global, rapidly eroded the conditions of life and the environment, brutalizing their health care systems.

89. An indigenous representative from Northern Europe spoke about the secrecy surrounding the statistics on the effects of the Chernobyl nuclear power plant disaster and nuclear testing in the 1960s on the environment and health of the indigenous peoples of the region. An indigenous representative from Latin America spoke of the transnational effects of mercury poisoning caused by gold prospecting, while another described the effects of a project whereby water was diverted to satisfy the needs of agriculture and urban centres, threatening the health and existence of 45,000 people and their livestock in three countries through a process of desertification of the land. An indigenous representative from the Pacific spoke about how State policies of unlimited transmigration and massive tourism had brought about a dangerous level of overpopulation in her people's fragile island ecosystems. An indigenous representative from North America reported on the health risks his people was subjected to through uranium mining and nuclear waste dumping.

90. With respect to the link between the environment and health, many indigenous representatives spoke about the direct effect of loss of biodiversity and the health situation of indigenous peoples. In that regard, an indigenous representative from Oceania stated that indigenous people's long and intimate connection with their lands was being recognize as a source of rich and diverse knowledge and understanding of biodiversity that was invaluable to any strategy to achieve ecological sustainability, which had obvious ramifications for their health.

91. Several indigenous representatives stated that they considered the lack of a health infrastructure for indigenous peoples to be one of the main causes for the current health situation indigenous peoples faced. An indigenous representative from Oceania stated in that respect that the diseases suffered by indigenous peoples were overwhelmingly diseases of poverty, resulting from appalling living conditions and poor nutrition, inadequate housing, unclean or insufficient water supplies and poor sewerage. An indigenous representative from Latin America stated that 80 per cent of the indigenous women in her

country lived without basic services and that 50 per cent of indigenous women in urban areas and 81 per cent of indigenous women in rural areas had no access to medical treatment. An indigenous representative from North America stated that poverty was one of the main causes of health problems; the indigenous people in his country earned 46 per cent less income than average and that 32 per cent of their housing lacked a bathroom, which created obvious health problems.

92. An indigenous representative from Africa noted with sadness that traditional practices, skills and knowledge were being overtaken by modern medicine, which indigenous peoples could not afford because of socio-economic constraints and, more importantly, because of privatization processes promoted by the Bretton-Woods institutions.

93. Several indigenous representatives referred to the impact the processes of colonization, marginalization and discrimination, and the resulting physical and socio-economic situation had on the mental health of indigenous peoples. In that regard an indigenous representative from North America stated that he had been requested by his community to tell the Working Group about a sickness that existed in his homeland, a sickness caused by colonization, oppression and militarization; he referred to a broken spirit, which manifested itself in alcoholism and suicide.

94. An indigenous representative from Oceania talked about the forcible removal of indigenous children from their families, culture, identity, land, language and spirituality, which created what she referred to as "a stolen generation" with obvious mental stress to deal with. Another indigenous representative from the same region recalled that almost half the indigenous people who had died in custody were from that "stolen generation". An indigenous representative from Asia referred to post trauma stress disorders among indigenous peoples stemming from displacement, destruction of habitat, suppression of traditional health systems and torture by security forces.

95. Several indigenous representatives stated that they considered the only solution for the problem of the health situation of indigenous peoples was the restoration, promotion and protection of autonomous, holistic health-care systems. An indigenous representative from Asia stated that that could only be done with the involvement of indigenous peoples in the planning and implementation of the health care system.

96. An indigenous representative from Latin America underlined the importance of a healthy environment and therefore of environmental protection for the health situation of indigenous peoples, while another indigenous representative from Latin America stated that research into self-sufficient indigenous health care systems should be based on the continuation and the protection of biodiversity as the only way to preserve traditional medical knowledge.

97. An indigenous representative from Latin America stated that traditional medicines were used as raw material for synthetic medicines, without the indigenous peoples having a share of the profits and while they suffered loss of knowledge. As in previous years, several indigenous representatives spoke about the human genome diversity project, nicknamed the vampire project

because its aim was to collect and patent genetic materials from indigenous peoples, and called for an immediate stop to it. An indigenous representative from North America reported on unsuccessful formal attempts undertaken by her organization to obtain information about the project directly from one of its directors. In addition, an indigenous representative from Asia suggested that the Special Rapporteur of the Sub-Commission, Ms. Erica-Irene A. Daes, continue her study on the protection of the heritage of indigenous people with a special focus on the human genome diversity project.

98. The indigenous peoples present at the Indigenous People's Preparatory Meeting on Sunday 28 July at the World Council of Churches presented a consensus statement in which they reiterated that the health of indigenous peoples was related to the spiritual, mental, emotional and physical health of indigenous peoples. They called, among other things, for a moratorium on bio-prospecting and patenting of life forms, a suspension of structural adjustment programmes and the development of several programmes by WHO including the recovering, strengthening and development of health rights for indigenous peoples, recognition and respect for traditional medicine and medicinal practices of indigenous peoples, and a global survey to determine the health conditions of indigenous peoples, and called for WHO to convene a conference on the health situation of indigenous peoples.

99. Mr. Guissé, member of the Working Group, stated that health was not just a matter of physical, but also of mental and social well-being and that more and more the link between traditional practices and health was being recognized. He added that, considering the problem of the high costs of medicine and treatment, traditional practices were a good alternative.

100. The observer for New Zealand pointed out the need for strengthened international cooperation to improve the health of indigenous peoples. WHO should play a central role and assist in developing comprehensive national plans to ameliorate the health situation of indigenous peoples. She informed the Working Group that her country's national health system had recently been restructured, which had given rise to some optimism among the Maori. The observer for Australia stated that much indigenous ill-health was preventable and could be blamed on the poor state of public health infrastructure - water quality, housing and sewerage - and the poor understanding of basic health concepts, such as nutrition, in some indigenous communities. He also said that the overlap in responsibility for public health infrastructure between various levels of government and agencies had as a consequence the lack of a cohesive strategy in that respect. He reported that his Government had established the 16-member Aboriginal and Torres Strait Islander Health Council to advise the Minister for Health and Family Services on strategies, priorities and policies. Furthermore, he stated that his Government recognized the key roles of regional councils, community-controlled health organizations and indigenous health workers in ensuring effective health delivery to indigenous people.

101. The observer for Canada, the Deputy Minister of Health, stated that aboriginal peoples in Canada had access to the same health services as other Canadians. In addition, the federal Government paid for the transportation of Aboriginal people living in remote areas and many hospitals employed, on a regular basis, translators and Aboriginal liaison workers to overcome language

and culture barriers. He reported that the national health care system was at present being reformed, with health care delivery being shifted from hospitals into the home and local community, resulting in the closure of a number of small, rural hospitals, thus complicating access. The reform also included the establishment of regional health authorities with the responsibility of taking the majority of decisions with regard to health care in their areas. He stated that Governments at all levels in Canada had developed policies for the provision of health services to Aboriginal people, focused on the direction set by them that their health care was holistic and under community control, and responding to community needs and priorities. He reported that, to date, his Government had transferred community health programmes to 25 per cent of all communities.

102. The observer for Colombia stated that his Government, in developing policies aimed at indigenous peoples, took into account three aspects central to the notion of indigenous health systems: the holistic vision of the world of indigenous peoples; the effective interaction between indigenous and non-indigenous health systems; and the need to ensure that globalization did not affect free health care for indigenous peoples. He reported that his Government had developed several strategies with regard to indigenous health based on education for indigenous youth in traditional medicines; ensuring the cultural appropriateness of health centres; ensuring access to remote indigenous communities; a subsidy scheme, and the inclusion of all indigenous people in that scheme.

103. The observer for Brazil said that his Government had taken the lead at the WHO Executive Board and at the World Health Assembly in proposing resolutions aimed at the establishment of a structured framework for international cooperation on indigenous health. The health of Brazilian indigenous people was among the highest priorities of his Government, together with the demarcation of their lands, because of the inextricable link of their health with the maintenance of their habitat and have resulted in the establishment of a special coordination unit for indigenous health in the Ministry of Health, the organization of two national meetings with wide participation of indigenous people to define priorities, the creation of an inter-institutional health commission, including four organizations of indigenous people, to advise the Brazilian National Health Council, and the establishment of local indigenous health councils. All those activities were based on the concept of integral attention to health, comprising both medical care and sustainable development, a model also based on the recognition, respect and maintenance of traditional health practices and knowledge, with a view to promoting harmonious and synergic coexistence with Western medicine. In addition, he reported on the health situation of the Yanomami who, since 1991 had their own health district. It had already caused a drop in the rates of mortality and malaria.

104. The observer for Denmark and representative of the Greenland Home Rule Government pointed out that in Greenland there were a range of health problems despite access to free health care and treatment of a high standard. She reported that the Home Rule Government, inspired by the International Year of the World's Indigenous People, had launched a campaign in 1993 called "A stronger life" to raise and create awareness of every individual's potential for creating healthier lives. As a consequence of that growing awareness, an

alcohol-rehabilitation centre had been opened in Greenland in 1995 and many community-based activities like self-help groups, telephone help-lines, etc., had been set up voluntarily, strengthening the philosophy of the Home Rule Government that the causes of health problems were closely related to control over land, resources, identity as a people and culture. She pointed out that, the primary food source of the people of Greenland was the meat of marine mammals the consumption of which, based on findings in Greenland and the Arctic, prevented coronary diseases and the clogging of arteries. She stated that her Government found it difficult to accept the intense pressure by some of the industrial countries to limit their right to hunt sea mammals and develop a sustainable economy and trade base. She called upon WHO to designate a focal point for the International Decade and requested WHO to create a programme of action on indigenous health.

105. The observer for the United States of America stated that his country maintained an entire health care system called the Indian Health Care Service for American Indians and Alaska Natives. Improvements made to the service through the 1986 Indian Health Care Improvement Act had resulted in a continuous rise in Indian life expectancy, which now approached that of the average American, and a substantial decrease in infant mortality rates. Specific problems remained with regard to the higher incidence of diseases such as diabetes, tuberculosis and heart disease.

106. The observer for Norway said that in 1991 the Ministry of Health and Social Affairs had appointed a committee to examine the issue of health and social services for the Sami population in Norway which had presented its report, entitled "Plan for Health and Social Services for the Sami Populations in Norway" in 1995. The plan was based on the principle of integrated, coordinated health and social services for the Norwegian Sami population, taking into account their specific needs. The report had emphasized that it would be necessary to adopt a cross-sectoral approach in order to improve the health and social situation of the Sami, in particular with regard to preventive measures. The report had been circulated to relevant bodies for comments; the Sami Parliament had provided comprehensive comments, including proposals for follow-up to several of the report's proposals. The report was an important measure aimed at acquiring more systematic knowledge of health and social welfare services for the Sami and it was hoped that it would serve as a basis for improvements in the health and social services schemes for the Sami.

107. Dr. Eric Goon, Director of the Division of Organization and Management of Health Systems of WHO stated that WHO had taken careful note of the comments put forward by the Chairperson-Rapporteur and all the participants and would study them carefully to see how best to incorporate them in the programme the Director-General would submit to the WHO Executive Board in January 1997. He considered that some of the proposals were feasible while others were not, but that most of them reflected the ideals and principles of health for all and primary health care as such and were already incorporated in WHO health policies and programmes.

108. A large number of indigenous representatives, as well as government observers, welcomed the decision of the Working Group to focus the deliberations under this agenda item on the issue of health and expressed appreciation for the participation of WHO.

IV. CONSIDERATION OF A PERMANENT FORUM FOR INDIGENOUS PEOPLE

109. In introducing this item the Chairperson-Rapporteur pointed out the importance and usefulness of a permanent forum for the world's indigenous peoples. She also mentioned her working paper prepared for the workshop on the establishment of a permanent forum (E/CN.4/Sub.2/AC.4/1995/7/Add.2) and expressed her support and appreciation to the Government of Chile for having offered to host the second workshop on the permanent forum.

110. The observer for Chile said that his delegation considered the establishment of a permanent forum to be a high priority issue. Furthermore, the question should be resolved as soon as the review of existing procedures and programmes within the United Nations concerning indigenous people, to be undertaken by the Secretary-General, had been carried out in accordance with the mandate given by the General Assembly in its resolution 50/157 of 21 December 1995. The observer for Chile also emphasized that that process, which was now under-way, should not be stopped, and that new and greater efforts should be given to the constitution of the permanent forum. He referred to Commission on Human Rights resolution 1996/41, in which the Commission had taken note of the recommendation of the General Assembly that it consider the convening of a second workshop on the possible establishment of a permanent forum, and reiterated his Government's offer to host the second workshop at the beginning of 1997.

111. The observer for Denmark, who also spoke on behalf of Finland, Iceland, Norway, Sweden and the Greenland Home Rule Government, said that progress had been achieved in the discussion on many of the issues relating to the establishment of a permanent forum. She referred to the report of the first workshop, which indicated that many Governments and all indigenous representatives present at the workshop supported the idea that the permanent forum should have a broad mandate, as well as a wide scope covering such issues as development, the environment, culture and human rights. Furthermore, he said that the permanent forum, because of its broad mandate, should be placed at a high level within the United Nations, at the level of the Economic and Social Council. The observer for Denmark also drew attention to the ongoing review of the existing United Nations mechanisms, procedures and programmes concerning indigenous people, and urged the relevant United Nations agencies to facilitate the completion of the review. Furthermore, she believed that, drawing on the results of the review, a second workshop on the establishment of a permanent forum should be convened.

112. The observer for Australia said that his Government supported the establishment of the permanent forum and that it should be linked to the Economic and Social Council at a suitably high level. Furthermore, it would be desirable that the permanent forum should have a mandate that embraced the full range of issues of concern to indigenous peoples, and that the mandate should extend beyond a narrow human rights focus to include economic, social and development issues, as well as coordination of all United Nations

activities relevant to the concerns of indigenous peoples. The observer for Estonia said that there was a need for a permanent forum for indigenous people and that the consideration of that issue must be given a priority. The observer for Mexico expressed his Government's support for the establishment of a permanent forum within the framework of the International Decade of the World's Indigenous People.

113. The representatives of indigenous peoples attending the indigenous peoples' preparatory meeting for the Working Group presented a joint resolution on the question of a possible permanent forum which said that the permanent forum should not be a replacement for the Working Group on Indigenous Populations and that it should be established at the highest level of the United Nations, as a subsidiary body of the Economic and Social Council or the General Assembly. Furthermore, it stated that it was essential that indigenous peoples should have similar access to the permanent forum as they enjoyed to the Working Group on Indigenous Populations. It also emphasized that it was crucial that specialized agencies should play an active part in the deliberations of the permanent forum, and that they should report to the forum on their activities of special interest to indigenous peoples.

114. Five indigenous organizations from Australia made a joint statement in which they said that the permanent forum should be capable of receiving complaints about the abuse of the human rights of indigenous people, as well as reviewing developments that concerned indigenous people. Furthermore, they said that the mandate of the Special Committee on the Situation with regard to the Implementation on the Granting of Independence to Colonial Countries and Peoples should be extended to monitor the implementation of a future United Nations declaration on the rights of indigenous peoples.

115. In a joint statement, the Asian Indigenous Caucus at the Working Group said the permanent forum should be at least on the same level as the Economic and Social Council and emphasized that the permanent forum should be given the mandate, inter alia, to take appropriate action to protect the human rights of indigenous peoples.

116. Many indigenous representatives said that the permanent forum should be established at the highest possible level within the United Nations system, at the minimum as a subsidiary body of the Economic and Social Council. Some indigenous representatives indicated that a future permanent forum could be established as a functional commission. One of them said that the forum could be entitled the "United Nations Commission on the Status of Indigenous Peoples".

117. Governments, as well as indigenous representatives, were of the opinion that the mandate of the permanent forum should be broader than only human rights. It was said that the mandate could include cultural, political, economic, civil, social, environmental, developmental, and educational issues. Many representatives said that the permanent forum should not duplicate the work of the Working Group on Indigenous Populations. It was also proposed that the Working Group should continue its work and that the permanent forum should not be seen as an alternative to the Working Group.

118. Some indigenous speakers elaborated on the question of the composition of the permanent forum. Many emphasized that the forum should consist of an equal number of members from Governments and indigenous peoples on the basis of equal geographical distribution. Some indigenous representatives were of the opinion that independent experts could be additional members of the permanent forum.

119. Many speakers, representing Governments as well as indigenous peoples, welcomed the initiative of the Government of Chile to host the second workshop on the possible establishment of a permanent forum. The ongoing review of existing mechanisms, procedures and programmes and the planned second workshop were identified as essential elements in the process pertaining to the establishment of a permanent forum.

120. Mr. Miguel Alfonso Martínez, member of the Working Group, stated that, in his opinion, the Working Group on Indigenous Populations was a permanent forum and that he had been concerned, since the Vienna Conference first made the recommendation on the subject, that the proposed permanent forum might be an alternative to the permanent Working Group on Indigenous Populations. He said that the recommendation of the Vienna Conference did not indicate what the new permanent forum should do, and that the title "permanent forum" was misleading because of the permanent character of the Working Group. However, he emphasized that a new permanent forum should have nothing to do with the issues covered by the mandate of the Working Group, and that it should be an action oriented body and not only a discussion chamber. Furthermore, he said that it was essential that core questions such as the mandate, membership and financial implications should be addressed at the second workshop.

121. Mr. El-Hadji Guissé, member of the Working Group, raised the same concerns as Mr. Alfonso Martínez. Furthermore, he expressed the opinion that during the Working Group session some participants had raised questions which were outside the mandate of the Group, and that many had raised typical minority and not indigenous issues. He said that it was essential to define the work of bodies dealing with indigenous issues, in order not to confuse indigenous issues with questions relating to minorities.

V. INTERNATIONAL DECADE OF THE WORLD'S INDIGENOUS PEOPLE

122. In introducing this item, the Chairperson-Rapporteur explained that in order to make the International Decade of the World's Indigenous People a success a number of requirements had to be met. She called for more operational action and more political commitment to the permanent forum by the United Nations system. She also called on both Governments and private entities to contribute more to the Voluntary Fund for the Decade. In connection with the Fund she explained that the advisory group, established by the Coordinator of the Decade, the Assistant Secretary-General for Human Rights to advise him on procedure and disbursement of funds available, was composed of the Board of Trustees of the Voluntary Fund for Indigenous Populations, the Chairperson-Rapporteur of the Working Group on Indigenous Populations, the representatives of three donor Governments (Canada, Denmark and Japan) and a representative of UNDP.

123. An indigenous representative from Russia stated that the Decade should not be used for token projects. He suggested that in the first four years of the Decade the draft declaration should be adopted and that work should start on the drafting of a convention on the rights of indigenous peoples; that a world congress of indigenous peoples should be organized in 1999-2000; that Governments should amend their national legislation and incorporate minimum standards on indigenous peoples; and that a special procedure for complaints and formal communications should be established by the Commission on Human Rights.

124. An indigenous representative from North America said that, within the framework of the Decade, his people had initiated the first stage in the development of an exchange with Mapuche in Chile. He stressed the need for Governments to support indigenous community development initiatives at the local level where tangible results could be seen. Another representative from North America stated that indigenous peoples also had a responsibility to promote the Decade and announced that her people would undertake fund-raising activities.

125. An indigenous representative from Australia stated that her organization had been given responsibility for the coordination, planning and implementation of the Decade activities in the country where she lived. She stated that one of the activities undertaken was the funding of an analysis of the draft declaration and the production of a plain language version. On behalf of her organization, she requested that the Coordinator of the Decade provide the Working Group with regular reports on Decade activities around the world and establish an evaluation mechanism to assess the outcomes of the Decade; she called on Governments to undertake greater funding commitments to the Voluntary Fund. She also stated that the draft declaration should be adopted by the General Assembly and the permanent forum should also be established.

126. An indigenous youth from Northern Europe stated that the indigenous youth of the world should be part of the Decade and proposed that all possible efforts be undertaken to ensure that indigenous youth were represented in the Working Group on Indigenous Populations and the working group established pursuant to Commission on Human Rights resolution 1995/32 of 3 March 1995, as well as in the Advisory Group for the Voluntary Fund of the Decade and the Board of Trustees of the Voluntary Fund for indigenous Populations.

127. An indigenous representative from Africa stated that the lack of resources in the Voluntary Fund was discouraging and appealed to Governments to match their oratory with action and contribute more, so that the Fund would not remain a "white elephant". An indigenous representative from Latin America stated that the Decade should be coordinated by indigenous peoples and that for the Decade to be successful more and better communication was necessary between the United Nations system and indigenous peoples and between indigenous peoples themselves. The latter point was reiterated by an indigenous representative from Africa, who also stated that indigenous peoples were not aware of the existence of the Decade and education and information activities should be undertaken.

128. An indigenous representative from North America stated that sports were important for the health and overall well-being of indigenous peoples. He reported on the staging of two regional sports meetings and informed the Working Group that a third one was going to be held in 1997. He requested the incorporation of the organization of two world indigenous nations games in the programme of activities for the Decade.

129. The observer for Japan stated that his Government was of the view that the programmes of the Voluntary Fund should be enhanced in the field of the preservation of the cultures of indigenous people and cultural exchanges among indigenous people. Furthermore, he stated that it was very important to ensure the effective management and use of the resources available and that the Voluntary Fund should be established as a separate account. He requested the Secretariat to take the necessary steps for the Voluntary Fund to be established as an independent fund.

130. The observer for Denmark welcomed the establishment of the Advisory Group for the Voluntary Fund and explained that Denmark participated in that group as an active observer and did not wish to be involved in the adoption of recommendations concerning specific projects. He also stated that his Government attached great importance to the guidelines for administration and financial management that had been adopted at the first meeting of the group, in particular with regard to the establishment of a separate account for the Voluntary Fund in Geneva and to strengthening secretarial support for the Fund. In closing, he said that, as soon as the guidelines were formally adopted and implemented, the Government of Denmark would transfer its contribution to the Fund.

131. The observer for Canada stated that, in January 1996, national Aboriginal leaders had been invited to discuss the objectives and possible future activities for the Decade with the Minister of Indian Affairs. That had generated a common interest among the Aboriginal groups represented at that meeting for the international trade and development theme of the Decade. She reported that the Decade had been a catalyst for increasing awareness of Aboriginal issues and that increasingly community Decade initiatives would be developed, such as the Heritage Resources System, which included a wilderness park and trail system integrated with cultural and adventure travel and ecotourism activities, set up by an indigenous community in British Columbia.

132. The observer for Sweden said that the Government of Sweden had established a National Committee for Indigenous Issues, involving indigenous Sami people, in connection with the Decade. The National Committee had adopted a plan of action which, once implemented, would contribute to moving forward several issues concerning the Sami people. Furthermore, the Committee had organized a number of activities, including a seminar on land rights and exhibitions related to Sami culture and traditions, but had also undertaken activities related to indigenous people in other regions of the world.

133. The observer for Australia pointed out that the success of the Decade would depend in part on the contributions and initiatives of the United Nations specialized agencies, functional commissions and other United Nations organizations. Responsibility for coordination, planning and implementation of Decade activities had been given to the Aboriginal and

Torres Strait Islander Commission. An important objective of those activities was to increase awareness of indigenous rights and concerns among the wider community. Furthermore, Decade activities would complement and reinforce reconciliation processes, providing focus, occasions and opportunities for furthering understanding of indigenous issues throughout Australian society.

134. The observer for New Zealand welcomed the establishment of the Advisory Group for the Voluntary Fund for the Decade, the guidelines on management and the first disbursements as recommended by the group. However, she expressed concern about the management of the Fund as a sub-account and requested that it be established as a separate account. She concluded by stating that further contributions to the Fund by the Government of New Zealand very much depended on improvements with regard to the management of the Fund.

135. Mr. Alfonso Martínez, member of the Working Group, subscribed to the view put forward by several Governments that the Voluntary Fund should be established as a separate account and not remain a sub-account.

136. Mr. Guissé, member of the Working Group, expressed the view that the Voluntary Fund for the Decade should support small projects that affected the everyday life of the indigenous peoples.

VI. STUDY ON TREATIES, AGREEMENTS AND OTHER CONSTRUCTIVE ARRANGEMENTS BETWEEN STATES AND INDIGENOUS POPULATIONS

137. The Special Rapporteur, Mr. Alfonso Martínez, regretted having to inform the Working Group that, owing to technical reasons beyond his control, he had been unable to implement Commission on Human Rights decision 1996/109, in which the Commission had requested the Special Rapporteur to submit a third progress report on the "study on treaties, agreements and other constructive arrangements between States and indigenous populations" to the Working Group at its fourteenth session. The Special Rapporteur also offered an apology for not having been able to submit his second progress report to the Working Group at its thirteenth session in 1995 owing to health problems. The Special Rapporteur said that he would submit the third progress report to the Sub-Commission at its forty-eighth session, and that he would conclude his study and submit his final report in 1997.

138. In introducing the item, the Special Rapporteur referred to his second progress report (E/CN.4/Sub.2/1995/27), especially to his reflections on the minority/indigenous people dichotomy contained in chapter II thereof. He identified a need for further elaboration of that important question. It was essential to identify the distinction between "indigenous peoples" and "minorities". That was specially important in the Asian and African context where, in almost all cases, it could be difficult or even impossible to point out who was indigenous and who was not.

139. Mr. Guissé, member of the Working Group, congratulated Mr. Alfonso Martínez on his report and emphasized the importance of further elaboration of the dichotomy between minorities and indigenous peoples.

140. Many indigenous representatives emphasized the significance of the ongoing study on treaties. The view was also expressed that treaties remained

one of the best means of achieving equitable relationships between indigenous peoples and States. It was also stated that it was essential to ensure that treaties were respected and implemented.

141. An indigenous representative from Australia said that the colonizing powers had used the doctrine of "terra nullius" to rationalize their occupation of Aboriginal and Torres Strait islander lands and territories and that, therefore, no formal treaties had been entered into in Australia between Aboriginal and non-Aboriginal peoples. The speaker said that the Special Rapporteur should therefore study the contemporary ramifications of the historical application of the "terra nullius" doctrine.

142. An indigenous representative from the Pacific referred to document E/CN.4/Sub.2/1992/32 and said that Ka Lahui Hawai'i was one of the case studies which appeared in that report. The speaker said that that case study had not been completed, and that they therefore urged the Working Group to devote as much time as was required to complete it.

143. The representative of an indigenous people in Eastern Europe said that the Special Rapporteur also should undertake case studies pertaining to indigenous peoples in the former Soviet Union. The speaker also said that the treaty study would not be complete without taking into account the cases of indigenous peoples of such a large part of the Earth.

144. An indigenous representative from Africa referred to a treaty between the British Government and his people, concluded in 1904, and said that his people had not understood the intent and spirit of that agreement as their leaders were then illiterate and lacked the capacity to understand the effect of the treaty. He said that his people should be compensated and that treaties should be interpreted in favour of the indigenous peoples.

145. The Chairperson-Rapporteur congratulated and thanked the Special Rapporteur for his comprehensive oral statement and said that she was looking forward with particular interest to reading his third progress report, which would be submitted to the Sub-Commission at its forty-eighth session.

VII. OTHER MATTERS

A. Meetings and seminars

146. An indigenous representative from South America pointed out that indigenous peoples needed training in order to be able to participate fully and effectively in seminars and other meetings.

147. An indigenous youth from Northern Europe reported on the holding of the Fourth World Indigenous Youth Conference in Saamiland, which had attracted 500 youth from 23 different peoples in every continent. She said that the theme of the Conference, "Striking a balance - old guides, new paths", was aimed at seeking a balanced exchange between political and cultural issues. She informed the Working Group that the Conference had acknowledged that each person had an individual responsibility to lessen the consumption of natural resources, that governmental bodies should support initiatives to develop projects towards the establishment of education systems that prioritized

traditional knowledge and bilingual learning, and that authorities should provide adequate resources to redress the disease of alcoholism using indigenous methods. A concrete outcome of the Conference had been the establishment of the "Indigenous Youth Network" through which indigenous youth from all over the world could communicate with each other.

148. An indigenous representative from North America presented a consensus statement of the indigenous preparatory meeting held prior to the Working Group which called for the amendment of Commission on Human Rights resolution 1995/32 of 3 March 1995 in order to ensure the full participation of indigenous peoples in the Working Group on the draft declaration. The representative presented another consensus statement calling upon the Working Group to ensure, by resolution, that the item on the agenda of the Commission on Human Rights, entitled "Indigenous issues" remain as it was or be amended to "Indigenous peoples' rights".

149. The representative of the Indian Law Resource Center referred to the United Nations Expert Meeting on Indigenous Land Rights and Claims, held in Whitehorse, Canada, and to the great importance of the land issue for indigenous peoples and Governments. He recommended strongly that the Sub-Commission, if possible during its current session, propose to the Commission on Human Rights the appointment of a special rapporteur of the Sub-Commission to analyse existing land rights arrangements. This proposal was supported by many other indigenous delegations.

B. Voluntary Fund for Indigenous Populations

150. An indigenous representative from Oceania said that her organization supported the Voluntary Fund for Indigenous Populations and called on organizations and Governments to follow its example and contribute to the Fund. However, she also stated that her organization was subject to stringent financial reporting requirements, and in the interest of open accountability, would appreciate it if the Secretariat could provide it with an annual statement detailing actual expenditure by purpose and region. To facilitate the provision of that information, she recommended that the administration of the Voluntary Fund for Indigenous Populations be transferred from New York to Geneva.

VIII. CONCLUSIONS AND RECOMMENDATIONS

A. Standard-setting

151. The Working Group expressed the view that the standard-setting part of its mandate continued to be of fundamental importance.

152. The Working Group heard with interest and took note of the comments and suggestions relating to the concept of "indigenous peoples". It also expressed its willingness to assist the working group of the Commission on Human Rights established by Commission resolution 1995/32, if requested, in any conceptual clarification or analysis pertaining to the draft declaration.

153. The Working Group noted that representatives of indigenous peoples and many governmental delegations expressed the view that it was neither desirable nor necessary to elaborate a universal definition of "indigenous peoples".

154. The Working Group decided to recommend to the Sub-Commission that it transmit the working paper of its Chairperson-Rapporteur, Ms. Erica-Irene A. Daes (E/CN.4/Sub.2/AC.4/1996/2) to Governments, intergovernmental organizations and indigenous peoples requesting their comments, and to request the Chairperson-Rapporteur to prepare a supplementary working paper on the basis of the information received for submission to the Working Group at its fifteenth session.

155. The Working Group decided to continue its consideration of the concept of "indigenous peoples" at its fifteenth session under the agenda item on standard-setting.

B. Review of developments

156. The Working Group noted the view expressed by indigenous peoples and by many Governments that the agenda item dealing with review of developments provided an important opportunity to receive relevant information about the situations of indigenous peoples and recent governmental policy initiatives in that field.

157. The Working Group expressed its deep appreciation to the representatives of indigenous organizations which had travelled at great cost and sometimes with difficulty to the United Nations Office at Geneva to provide information about important developments concerning their peoples and communities. It also expressed its deep appreciation to the representatives of observer Governments who had provided substantive and valuable information about recent developments concerning indigenous peoples in their countries.

158. The Working Group also expressed its deep appreciation to the representatives of the World Health Organization and the Pan-American Health Organization for their advice and the substantive information and data that they had provided. It also welcomed the participation of the many indigenous health experts and governmental officials who had travelled to Geneva to share their experiences.

159. The Working Group decided to recommend to the Sub-Commission that it request the Centre for Human Rights to organize with the World Health Organization meetings at the international and regional levels, in the framework of the International Decade of the World's Indigenous People, with the participation of governmental health officials, indigenous health experts and other relevant persons, in order to elaborate practical projects and programmes. Such meetings could draw upon existing good practices and indigenous initiatives in the area of health and could promote the partnership of indigenous and non-indigenous health practices.

160. The Working Group expressed its concern about the Human Genome Diversity Programme, in particular the lack of information being made available to indigenous peoples targeted by the project. It considered that the Human Genome Diversity Programme should be halted until all indigenous people

affected were fully informed, and that their free consent should be sought before the project was recommenced. The decision by an indigenous person or community not to cooperate with the project should be respected.

161. The Working Group decided to continue its consideration of health and indigenous peoples as a sub-item of the agenda item "Review of developments".

162. The Working Group, in the light of the experience of its fourteenth session and the comments made by participants, decided to highlight as a first sub-item of its agenda item "Review of developments" the question of "indigenous peoples: land and environment". In that regard, it decided to request that the Sub-Commission seek information from Governments, specialized agencies, in particular the United Nations Environment Programme (UNEP), intergovernmental organizations and indigenous and non-governmental organizations to be made available in a background paper at its next session.

163. The Working Group decided, subject to endorsement by the Sub-Commission of the recommendation contained in the previous paragraph, to request the Chairperson-Rapporteur to inform the Board of Trustees of the Voluntary Fund for Indigenous Populations that its fifteenth session would highlight questions related to indigenous peoples: land and environment, so that the Board could take into account that information when it considered applications to the Fund.

C. Permanent forum

164. The Working Group noted that many indigenous representatives and governmental observer delegations had expressed the view that the proposed permanent forum should be established at the highest possible level within the United Nations system and that the proposed forum should not be a replacement for the Working Group on Indigenous Populations.

165. The Working Group emphasized the importance of the ongoing review of existing United Nations mechanisms, procedures and programmes, and expressed the hope that the relevant United Nations bodies and agencies would facilitate the completion of the review by providing the necessary information.

166. The Working Group expressed its appreciation to the Government of Chile for its offer to host the second workshop on the proposed permanent forum in that country, at the beginning of 1997.

D. International Decade of the World's Indigenous People

167. The Working Group welcomed the comprehensive Programme of Activities of the International Decade of the World's Indigenous People, adopted by the General Assembly in its resolution 50/157, and expressed its willingness to cooperate with the Coordinator of the Decade, the Assistant Secretary-General for Human Rights, in the realization of the programme.

168. The Working Group noted the decision by the Coordinator of the Decade to form an advisory group for the Voluntary Fund for the International Decade of the World's Indigenous People, as well as the guidelines for the Fund prepared by the advisory group and the projects approved by the Coordinator.

169. The Working Group also noted the observations and concerns expressed by some Governments and indigenous organizations concerning the financial and administrative arrangements for the Voluntary Funds for indigenous people and decided to recommend to the Sub-Commission that it request the appropriate services of the United Nations to establish separate accounts for the Voluntary Fund for the International Decade and the Voluntary Fund for Indigenous Populations and, if possible, to transfer the financial management of the Funds from New York to Geneva to ensure transparency and facilitate management by the Centre for Human Rights, and to establish different membership for the bodies advising on those two Funds.

170. The Working Group noted the view expressed by indigenous peoples that information about the United Nations and its activities relating to indigenous peoples should be improved and decided to recommend to the Sub-Commission and to the Coordinator of the Decade that the Centre for Human Rights should organize a workshop for indigenous journalists with the participation of appropriate departments of the United Nations and other relevant institutions and persons.

171. The Working Group decided to undertake at its fifteenth session a thorough review of the activities planned and actually carried out under the Programme of Activities of the Decade during its first three years.

172. The Working Group expressed its concern about the observation by the United Nations of the International Day of the World's Indigenous People (9 August), in particular the absence of representatives of indigenous people on the International Day at the United Nations Office at Geneva. It decided to recommend that the Sub-Commission request the Secretary-General to consult with the indigenous people represented at its twelfth, thirteenth and fourteenth sessions on whether the commemoration of the International Day should be brought forward to 1 August in order to coincide with the annual sessions of the Working Group on Indigenous Populations.

E. Treaty study

173. Many indigenous representatives emphasized the significance of the ongoing study on treaties, agreements and other constructive arrangements being prepared by the Special Rapporteur, Mr Alfonso Martínez, and stated that they looked forward to the third and final report on the work carried out.

174. The Working Group heard with great interest suggestions and views relating to the treaty study, including the suggestion that the Special Rapporteur should study the contemporary significance of the historical doctrine of "terra nullius".

175. The Working Group stressed the importance of Sub-Commission decision 1995/118, subsequently endorsed by the Commission on Human Rights in its decision 1996/109, in which it was recommended that the Special Rapporteur undertake a field mission to examine in situ the contemporary significance of a historic treaty in one country as a practical example for inclusion in the final report.

F. Meetings, conferences and other matters

176. The Working Group, noting the joint statement prepared by indigenous representatives, decided to recommend that the Sub-Commission and its parent bodies consider the renaming of the Working Group on Indigenous Populations as the "Working Group on Indigenous Peoples".

177. The Working Group expressed its appreciation to the Government of Canada for hosting the Expert Seminar on Indigenous Land Rights and Claims in Whitehorse in March 1996. It expressed support for the conclusions and recommendations of the Expert Seminar and noted the extreme importance to indigenous peoples and to Governments of finding mutually acceptable solutions to the issue of land.

178. The Working Group decided to recommend to the Sub-Commission that a study be undertaken, and in that respect, a special rapporteur be appointed to conduct a comprehensive study of the problem of recognition of and respect for indigenous land rights. Furthermore, such a study should provide a detailed and updated account of the status of efforts to secure indigenous land rights and of the problems that continued to exist in that regard.

179. The Working Group decided to consider the following questions as separate agenda items at its fifteenth session: "Standard-setting activities", including a sub-item on "the concept of indigenous peoples"; "Review of developments pertaining to the human rights and fundamental freedoms of indigenous peoples", including sub-items on "indigenous peoples: land and environment" and "indigenous peoples and health"; "Permanent forum for indigenous people"; "International Decade of the World's Indigenous People"; "Treaties, agreements and other constructive arrangements between States and indigenous populations"; "Other matters".

180. The Working Group expressed its deep appreciation to the Secretariat for the preparations for its fourteenth session, in particular the documentation made available to participants, and requested that an annotated agenda be prepared, as in previous years, for its fifteenth and subsequent sessions.